IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 17TH SEPTEMBER 2007 / 26TH BHADRA 1929

WP(C).No. 5503 of 2007(E)

PETITIONER:

THOMAS MATHEW,
THURUTHIPARA HOUSE, ALANAD P.O.,
KOTTAYAM DISTRICT.

BY ADV. SRI.ROJO J.THURUTHIPARA

RESPONDENTS:
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1. THE EXECUTIVE ENGINEER,
LOCAL SELF GOVT. DEPARTMENT,
PUBLIC WORKS DIVISION, KOTTAYAM.

2. THE BLOCK PANCHAYATH,
LALAM, PALA, KOTTAYAM, REPRESENTED BY
ITS SECRETARY.

R1 BY GOVT. PLEADER MR.K.J.MOHAMMED ANZAR
R2 BY ADV. SRI.P.B.SAHASRANAMAN
SRI.K.JAGADEESH
SRI.T.S.HARIKUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE,J.

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W.P.(C) No.5503 of 2007

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Dated: 17th September, 2007

JUDGMENT

In this Writ Petition the petitioner who was a contractor to the 2nd respondent-Block Panchayat for execution of a work of Piusmount - Maryland - Kandathimav - Neeloor Road in Kadanad Panchayat within the area of the 2nd respondent-Block Panchayat which was a NABARD sponsored work is aggrieved in that the 2nd respondent has not so far released to him the balance amount of Rs.2,14,129/- which was due to him under Ext.P5 bill.

2. A detailed counter affidavit has been filed by the 2nd respondent opposing the prayers in the Writ Petition.

3. Heard Mr.Rojo Joseph Thuruthipara, counsel for the petitioner, Mr.K.J.Mohammed Anzar, learned Government Pleader on behalf of the 1st respondent and Mr.P.B.Sahsranaman, counsel for the 2nd respondent.

4. Having heard the submissions and having gone through Exts.P1 and P7 resolutions of the Block Panchayat as well as Ext.P2 agreement and having considered the circumstance that the amounts payable by the NABARD is Rs.35 lakhs have already been released, I am of the view that the 2nd respondent is not justified in declining

payment of the balance amount of Rs.2,14,129/- on the ground that the concurrence of the NABARD is not given. Under Exts.P1, P7 and P2 it is the obligation of the 2nd respondent to make balance payment even if it be from out of own funds of the Panchayat. Accordingly, I allow the Writ Petition directing the 2nd respondent to pay the balance bill amount of Rs.2,14,129/- as evidenced by Exts.P5 and P7 in accordance with Ext.P2 supplementary agreement and in implementation of Ext.P1 at the earliest and at any rate within six weeks of the petitioner placing copy of this judgment. If the amount is not paid within the above stipulated time limit, the amount will carry interest at the rate of 12% per annum.

srd **PIUS C.KURIAKOSE, JUDGE**